

**IN THE HIGH COURT OF JUDICATURE  
AT BOMBAY  
TESTAMENTARY & INTESTATE JURISDICTION  
IN  
MISC. PETITION NO.L-427 OF 2008  
IN  
PETITION NO.442 OF 2003**

Mr.Finlay Briganza & Ors.

...Applicants

Vs.

Perth Briganza

...Respondent

Mr.Charanjeet Chandrapal for Applicants

[Mr.C.Balsara](#) with Mr. [H.N.Vakil](#) i/b.

M/s. Mulla & Mulla Co., for Respondent

**CORAM: SMT.ROSHAN DALVI, J.**

**DATED: 22<sup>ND</sup> APRIL, 2008**

**P.C.**

1. This Petition is filed under Section 301 and 302 of Indian Succession Act, 1925. The parties to the Petition have been litigating in Suit No.916 of 2004. In that suit a Notice of Motion No.4823 of 2007 has been taken out and at present is being heard by my brother Judge Mr. A.P. Deshpande. The issues in that suit relate to the same suit property. It would be best if parties are heard by the same Judge at the same date to avoid duplication of the arguments. I am told that the Notice of Motion is part heard

and pending, during which this application is moved for urgent reliefs in the Testamentary and Intestate jurisdiction. The probate in this Petition has been obtained on 9<sup>th</sup> September 2004. Reliefs are being pressed against the sole executor. The Applicants herein have conceded to 1/6<sup>th</sup> share of all the heirs including the sole executor in respect of the property for which the relief is claimed in the Suit.

2. It is the Applicant's case that there are 6 properties left by the deceased under probated Will. That aspect is denied by the Respondent.
3. In these circumstances and since my brother Judge is dealing with the litigation with respect to the property for which the reliefs are claimed today, the applicant may make an application before the learned Hon'ble Chief Justice to place this matter to be tagged along with the pending Notice of Motion so that all the reliefs in both the applications can be granted upon hearing the parties at one time.

**(SMT. ROSHAN DALVI, J.)**